

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-301-C - ORDER NO. 2000-821

OCTOBER 10, 2000

IN RE: Application of eVulkan, Inc. for a Certificate)	ORDER
of Public Convenience and Necessity to)	APPROVING
Provide Local Exchange and Long Distance)	APPLICATION
Telecommunications Services on a Non-)	
Facilities Basis within the State of South)	
Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of eVulkan, Inc. ("eVulkan" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a non-facilities based reseller of local and long distance telecommunications services within the State of South Carolina. The Company's application was filed pursuant to S.C. Code Ann. §58-9-280 and §58-9-520 (Supp. 1999) and the Regulations and Orders of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed eVulkan to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. eVulkan complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”) on August 25, 2000. Thereafter, on August 31, 2000, Counsel for SCTC filed with the Commission a Stipulation in which eVulkan stipulated that it would only seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent’s service area, unless and until eVulkan provided written notice of its intent prior to the date of the intended service. eVulkan also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. eVulkan agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to eVulkan provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on September 27, 2000, at 11:30 a.m., in the Commission’s Hearing Room. The Honorable William Saunders, Chairman, presided. Bonnie D. Shealy, Esquire, represented the Company. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Richard Stubbs, General Counsel for the Company, appeared and offered testimony in support of the Company’s application. As General Counsel, Mr. Stubbs is responsible for regulatory compliance. Mr. Stubbs is also Director of Business Development. He became employed with eVulkan in January 2000 after having become

acquainted with Mr. George Jankovic, the Company's Chief Executive Officer, in September 1999. Mr. Stubbs was previously a partner with a law firm in Massachusetts until he became employed with eVulkan.

eVulkan was founded in July 1999 by Mr. Jankovic. Mr. Jankovic left a very successful internet company known as Vertical Net where he was a vice president of product development. He became employed with Vertical Net after initially having his own company and selling it to Vertical Net. Mr. Jankovic then left Vertical Net in July 1999 taking with him some of the proceeds from the initial sale of his company to try to implement an ambitious plan to help consumers. Mr. Jankovic's mission was to bring services to consumers – both at the residential and small business level – in new ways facilitated by the Internet. He wanted to provide consumers with a greater choice and lower rates. Mr. Jankovic's idea was that with the efficiencies created by the Internet, along with some proprietary technology, consumers would be able to pay for all of their everyday services with one consolidated bill, one point of contact, with the option to continue to pay bills through paper billing and also to pay bills through on-line, credit card payments.

In February 2000, Mr. Jankovic received a commitment from three top investors in the Internet totaling thirteen and a half million dollars to build out his vision. Thus, the Company has spent the past six months advancing the technology required to implement Mr. Jankovic's vision, assembling the expertise on the telecom side as well as the energy side. In the end, the Company hopes to provide customers who accept their services with

long distance, local, wireless, broadband, electricity, and gas services in those markets where these services are deregulated.

The Company has received authority in approximately forty states to provide long distance telecommunications services and eVulkan has received authority to provide local services in approximately ten states. eVulkan has not been denied authority to provide telecommunications services in any jurisdiction where the Company has applied for authority. Additionally, eVulkan has never had authority revoked in any state where it has been granted authority. The Company has never been the subject of an investigation, fined or sanctioned by any state or federal regulatory authority.

The testimony reveals eVulkan's management team's ability to provide telecommunications' services in South Carolina. Mr. Jankovic has a radio-frequency background. The Company has hired a General Manager who has had experience in two start-up companies involving wireless services. eVulkan's Director of Telecommunications-Business Development was previously employed with Sprint, MCI, and RCN.

Regarding eVulkan's technical ability to provide telecommunications services, the Company's Chief Technology Officer is Mircea Mihaescu. Mr. Mihaescu was formerly Chief Technology Officer for the Bank of Montreal; he has assembled a team at eVulkan with experience in development, billing, and payment systems. The Company currently has a development team of approximately thirty-five employees to handle technical problems. eVulkan will also rely on its underlying carrier for technical expertise.

The Company's financial resources consist of its first round of funding in the amount of thirteen and a half million dollars. Some of the Company's investors include the following companies: Soft Bank Technology Ventures—one of the top five investors in the new economy – has invested in companies such as Yahoo, e-Trade, People PC, and several hundred companies at various levels of development; Burlsmen Ventures – the Company's second largest investor – is known as either the third or fourth largest media company in the world and are the supporters of Barnes and Noble.Com and other companies; Blue Rock Capital, which has holding in approximately a dozen to twenty companies primarily on the northeast and mid-Atlantic seaboard; strategic investors such as Michael Price who is known as one of the top names in telecom investments; Pat Emmanuel Hart, the Chief Executive Officer of Telecity, and Michael Hagan, the founder of Vertical Net.

eVulkan, after receiving certification from the Commission, would like to offer local and long distance services for residential and small offices. The Company will offer both on-line billing options and paper billing options. eVulkan will not enter a market until it is certain it can handle billing procedures correctly. The Company will utilize proprietary technology, outsourced billing, and underlying carriers' billing functions. Whether on-line billing or paper billing is utilized by the Company or whether billing is outsourced, Mr. Stubbs testified billing will be handled in a proper and effective way.

The Company's customer service department is available twenty-four hours a day, seven days a week, three hundred sixty-five days a year. The customer service

department will be fully staffed. eVulkan will market its services via the Internet by allowing customers to sign-up for the Company's services on the Internet.

Mr. Stubbs also testified that the Commission's granting eVulkan's application would affect the availability of affordable local services in South Carolina by the Company entering the market with competitive rates. Moreover, it is the Company's intent that eVulkan's business model to effectively drive rates lower for consumers can be accomplished through several methods. One method eVulkan uses is aggregating consumers in a given pool and informing them that the more consumers who exist in the pool, the better the rates. Additionally, the Company intends to offer customers their "Bill Optimizer". The "Bill Optimizer's" purpose is to continuously review customers' call activity to find the best plan(s) for customers. eVulkan created the Bill Optimizer so that the Company could contact the customer first concerning the best plans for the customer. eVulkan will also support universally available telephone service at affordable rates. Mr. Stubbs is also the Company's regulatory contact person.

Finally, according to the testimony, as of the date of the hearing, eVulkan had not provided local or long distance services in South Carolina. Additionally, eVulkan had not marketed its telecommunications services in South Carolina as of the date of the hearing. Mr. Stubbs testified eVulkan had not received revenues from the completion of intrastate calls in South Carolina as of the date of the hearing.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. eVulkan is organized as a corporation under the laws of the State of Delaware and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. eVulkan wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that eVulkan possesses the technical, financial, and managerial resources sufficient to provide the service requested.
4. The Commission finds that eVulkan's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).
5. The Commission finds that eVulkan will support universally available telephone service at affordable rates.
6. The Commission finds that eVulkan will provide services which will meet the service standards of the Commission.
7. The Commission finds that the provision of local exchange service by eVulkan "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to eVulkan to provide competitive resold and facilities-based intrastate local exchange services only to

customers located in the non-rural areas of South Carolina. The terms of the Stipulation between eVulkan and the SCTC are approved, and adopted as a portion of this Order. Any proposal to provide local exchange service to a customer in a rural incumbent LEC's service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to the interexchange service offerings of eVulkan, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. eVulkan shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. eVulkan shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE

Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, eVulkan shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The Company shall file its revised local tariff prior to commencement of operations within South Carolina. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. eVulkan is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. eVulkan shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If eVulkan changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, eVulkan shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

9. eVulkan shall file annual surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations For Interexchange Companies and AOS".

10. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs eVulkan to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an

information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, eVulkan, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

eVulkan shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at www.psc.state.sc.us/forms to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. eVulkan shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all

Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. eVulkan shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, eVulkan shall keep financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings. The "Annual Report for Competitive Local Exchange Carriers" form can be located at the Commission's website at www.psc.state.sc.us/forms. This form shall be utilized by the Company to file annual financial information with the Commission.

14. By its Application, eVulkan requested waivers from Commission requirements (1) of publishing a directory; (2) of maintaining its books and records within the State of South Carolina; and (3) of any record-keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The Commission finds the reasoning behind eVulkan's requests for waivers of publishing a directory, maintaining its books and records in conformance with the Uniform System of Accounts, and maintaining its records required under the Commission's rules be kept within the State reasonable and hereby grants the waivers of these regulations. However, eVulkan is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2000-301-C

Re: Application of eVulkan, Inc. for a Certificate)
of Public Convenience and Necessity to)
Provide Local Exchange and Long Distance)
Telecommunications Services in the State)
of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and eVulkan, Inc. ("eVulkan") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose eVulkan's Application. SCTC and eVulkan stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to eVulkan, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. eVulkan stipulates and agrees that any Certificate which may be granted will authorize eVulkan to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. eVulkan stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. eVulkan stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until eVulkan provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, eVulkan acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. eVulkan stipulates and agrees that, if eVulkan gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then eVulkan will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. eVulkan acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

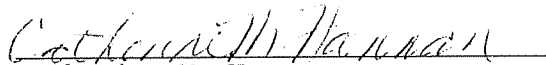
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and eVulkan, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. eVulkan agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

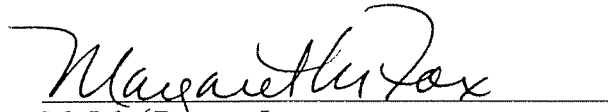
9. eVulkan hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 28th day of August, 2000.

eVulkan, Inc.:


Catherine M. Hannan
Hunter Communications Law Group, P.C.
1620 I Street, N.W.
Suite 701
Washington, DC 20006
(202) 293-2500

South Carolina Telephone Coalition:


M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

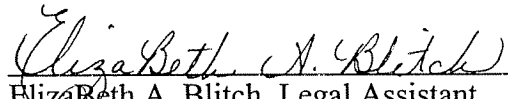
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Provide Local Exchange and Long Distance)
Telecommunications Services in the State)
of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Catherine M. Hannan, Esquire
Hunter Communications Law Group, PA
1620 I Street, N.W.
Washington, D.C. 20006.


ElizaBeth A. Blich, Legal Assistant
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

August 31, 2000

Columbia, South Carolina